

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

DOCKET NO. 1:18-cr-226

vs.

NING XI,

Defendant.

EXCERPT TRANSCRIPT FROM VOLUME II OF JURY TRIAL

GOVERNMENT OPENING STATEMENT

BEFORE THE HONORABLE ROBERT J. JONKER, CHIEF JUDGE

GRAND RAPIDS, MICHIGAN

June 19, 2019

Court Reporter:

Glenda Trexler
Official Court Reporter
United States District Court
685 Federal Building
110 Michigan Street, N.W.
Grand Rapids, Michigan 49503

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23 * * * * *

Grand Rapids, Michigan

June 19, 2019

8:36 a.m.

P R O C E E D I N G S

(Jury entered the courtroom at 8:36 a.m.)

THE COURT: All right. We'll consider court in session without the opening this morning, so please be seated.

We're back here on the second day of trial in the case of the United States against Ning Xi. As I told you yesterday, Members of the Jury, we're going to start today with the opening statements from the lawyers which are designed to give you an introduction to the way each side sees the case and the way each side will eventually argue you should see the case. It's a lot better than sitting through a whole day of questions and answers, but it starts your business as jurors of sitting on receive. And I already told you yesterday I know that's not an easy place to be.

So today you should plan that we'll go for an hour and a half to two hours, take a break, come back, do another segment, take a break, come back, and then finish out the day by 2:00. Hopefully that will allow everybody to stay focused and give attention to what we've got going on here. And we'll get started because it's already 8:35, and I think the government is probably ready to go with its opening.

Are you going to use the screen at all, Mr. Frank?

1 *MR. FRANK:* Yes, Your Honor, about halfway through.

2 *THE COURT:* All right. So we'll turn it over to
3 Mr. Frank for the opening statement of the government.

4 *MR. FRANK:* Good morning, ladies and gentlemen. I'm
5 going to take a little time now to give you a roadmap of the
6 evidence that the government thinks you'll be looking at over
7 the next several days. I'm not trying to -- right now I'm not
8 trying to persuade you of anything, because as the judge
9 mentioned yesterday there's no evidence in front of you yet and
10 it's the evidence that does the persuading in a room like this.

11 Now, like I said, my purpose is not to persuade.
12 This is to give you a preview of the evidence that's going to
13 come in. And you can analogize evidence to kind of like a
14 jigsaw puzzle. You pick up one piece of a jigsaw puzzle and
15 you may not recognize what it is or how it fits. Sometimes you
16 will know -- you'll recognize what a piece is, but you don't
17 know quite where it fits. So some pieces take longer to figure
18 out what it is and figure out how it fits. But once you've got
19 all the pieces together, well, then you know what you're
20 looking at because it looks like what's on the front of the
21 box.

22 Now, as the judge said, this is a fraud case against
23 Ning Xi. You're going to find out that he's a doctorate of
24 science which means his title is doctor, so he's Dr. Ning Xi.
25 You'll also learn that he was a distinguished professor at

1 Michigan State University in the Department of Electrical and
2 Computer Engineering. You'll also learn that he was a
3 high-ranking member of this IEEE organization which is the
4 Institute of Electrical and Electronics Engineers.

5 Now, we all know what and where MSU is, but you're
6 going to learn about IEEE. You'll learn that it's a
7 professional -- it's a worldwide professional organization
8 based in New York City. And one of the things that it does is
9 it hosts and sponsors technical conferences all over the world.
10 It has a membership of over 400,000 people, and if you are an
11 electrical engineer, odds are you're a member of IEEE.

12 Now, in addition to being a distinguished professor
13 at MSU, you'll learn that Dr. Xi was a fellow at IEEE and that
14 only a small fraction of the top 1 percent of IEEE members are
15 fellows. So we're talking about a defendant who held positions
16 of trust, respect, and prestige in two different institutions,
17 Michigan State University and IEEE. And we're going to present
18 testimony and documents to you that we believe will prove to
19 you that Dr. Xi exploited those positions of trust, respect,
20 and prestige to steal hundreds of thousands of dollars from MSU
21 and IEEE. The evidence, we think, is going to show you that he
22 did this, he accomplished this by lying about travel expenses
23 again and again and again year after year after year.

24 Now, we're not saying that he never traveled anywhere
25 on behalf of MSU. He's a distinguished professor. Of course

1 he traveled on behalf of MSU. Of course he showed the Spartan
2 flag in other cities and other countries. That was part of his
3 job. So we're not saying he never traveled for MSU.

4 We're not saying he never traveled for IEEE. He's a
5 fellow at IEEE. Of course he traveled for IEEE. But the
6 evidence is going to show -- and so the government's case is
7 not going to be that he was never entitled to any
8 reimbursement, but the evidence is going to show an unbroken
9 pattern of his submitting or having submitted false claims,
10 claims with false airline itineraries because the itinerary had
11 been booked, canceled, and already refunded when he put in to
12 be reimbursed.

13 And, of course, reimbursement means if I go do
14 something for you and I spend gas money and I spend an airplane
15 ticket and I need a hotel, then I come to you because I've done
16 this for you and I show you the documents and you pay me for my
17 out-of-cost expenses. So that's what we're talking about when
18 we say reimbursement. I think we probably all have the same
19 definition of that.

20 In any event, we'll show this pattern again and again
21 and again year after year of his submitting reimbursement
22 claims that contained false airline itineraries. Because like
23 I said, either it was booked, canceled, and refunded or the
24 itineraries had been altered and manipulated. Because when you
25 compare what he submitted to the actual airline records -- and

1 you'll learn that airlines, of course they keep records of
2 where you fly and when you fly. They are big businesses, so
3 they keep accurate records. When you compare these itineraries
4 that were submitted to the airline itineraries, mismatch.
5 Sometimes it's like, No, that flight didn't go there then.
6 Sometimes it was, Oh, yeah, that flight went from here to
7 there, but it wasn't Ning Xi going to Hong Kong, it was
8 Joe Smith going from Kentucky to Idaho. So sometimes it's just
9 a completely different itinerary. But we'll show you that
10 these itineraries that were submitted, sometimes it's a
11 complete mismatch with the airline records. Sometimes a ticket
12 number doesn't even exist in the airline record system.

13 We'll show that often, again and again and again,
14 claims were submitted with the same itineraries multiple times
15 to different entities. Here, MSU, reimburse me in full for
16 this. Oh, and IEEE, reimburse me in full for the same thing.
17 You'll see that pattern.

18 You'll see claims submitted for simultaneous travel
19 to different parts of the world. You'll see claims submitted
20 saying, well, I'm going from the United States to China that
21 way across the Pacific at the same time that a claim is
22 submitted saying, oh, I'm coming this way from China, that way
23 across the Pacific. Well, unless you're an X man, it's kind of
24 hard to be going in the same direction -- different directions
25 at the same time.

1 So, for example -- and this is just a summary of some
2 exhibits you'll see -- you'll see an example like this. And
3 the exhibit numbers are the exhibits that you'll be looking at
4 when you get a chance to deliberate. You'll see here this
5 ticket number ending in 4066, a United ticket number, this is
6 an itinerary that was submitted in a travel claim to MSU. And
7 during your deliberations, I mean, you're going to have --
8 you'll be looking at a lot of pieces of paper, but you'll see
9 that, okay, here is this ticket number ending in 4066, here is
10 the record from United saying, Nope, nothing for Ning Xi with
11 this ticket number in our system. So right there. And you'll
12 see the dates, 6 September to 13 September, and when you look
13 at the itinerary, Detroit through some connection cities into
14 Chicago, it's basically a Detroit, Hong Kong, back to Detroit
15 trip. Round trip from Detroit to Hong Kong and back.
16 Supposedly in 6 -- what is that, the second week of September.
17 The problem is, nope, that ticket number, not in the records of
18 United.

19 Next page, please.

20 Now, in that same exhibit series you'll see, okay,
21 well, here is another claim.

22 Is it possible to blow that up on the left side a
23 little bit?

24 Okay. You'll see this itinerary for \$2,085.10.
25 You'll see in the records of United that that was voided.

1 Okay?

2 Back out.

3 Well, it's interesting, because here are two
4 different itineraries that the evidence will show were
5 submitted to two different IEEE conferences, that is to be
6 reimbursed from two different conference budgets. And the
7 first one -- blow up this area -- the first one was for -- look
8 at that, 6 September, kind of hard to see, but, again, that
9 first week in September, Detroit, Hong Kong, and back. So this
10 is a claim that is submitted for 3,430.85. Five hundred bucks
11 more than the ticket price over here. And the ticket was
12 voided. But that itinerary went in for a claim and was paid
13 out of an IEEE budget or account.

14 Then -- back out, please -- we go over here and we
15 see that ticket number again, but this time it's for a round
16 trip from Detroit to Hong Kong and back, and now it's in the
17 first week of November. But it's the same ticket number. And
18 this time it's been bumped up \$500. The other one was bumped
19 up a thousand dollars. So you'll have this evidence where
20 you'll see this pattern of tickets being submitted for
21 reimbursement that aren't in the system at all or that were
22 booked and voided, which means they didn't fly, and where the
23 cost was increased 500 bucks here and then a thousand bucks
24 this time. And all at the same time, at least as far as that
25 first submission to MSU and this ticket on the left or in the

1 center of the screen, where, wait a minute, if I'm going from
2 Detroit to Hong Kong and back, do I get fully reimbursed by
3 both MSU and IEEE? And when you compare these documents,
4 you'll see these are imaginary itineraries to begin with.

5 Or you'll see -- this is also a series of exhibits
6 that you'll get to look at. This is a trip to Budapest in 2011
7 in late June. And this is a graphic. These aren't the actual
8 exhibits. But you'll learn that it's no surprise probably that
9 the U.S. government keeps track of when people come into this
10 country and when they leave. It's an agency called CBP,
11 U.S. Customs and Border Protection. So the government keeps
12 track of when people leave and come back. And you'll have a
13 chart of all of the travel that CBP -- the exits and entries
14 from the United States that CBP has for Dr. Xi.

15 And those records will show up here that, okay, HKG
16 is Hong Kong. He came in from Hong Kong to Detroit on June 22,
17 2011. Then he left on 1 July 2011. ORD, as you probably know,
18 is Chicago. CDG is Charles de Gaulle in Paris. So he leaves
19 on 1 July on his way to Paris, and then he doesn't come back in
20 until the 8th of August from Bangkok. He flies into LAX,
21 Los Angeles. So we know, okay, he's not in the country from
22 1 July until 8 August. But then you'll see this series of
23 submissions here where he submits a claim to MSU saying, okay,
24 I came in on the 22nd of June and I left on the 11th of July
25 going back to Hong Kong.

1 Well, you'll probably reasonably ask, how do you
2 leave from the United States for Hong Kong on 11 July if you're
3 not even in the country? And you won't be back in the country
4 until the 8th of August. But that itinerary right there was
5 submitted to MSU for reimbursement.

6 So was this one, Lansing -- BUD is Budapest --
7 Lansing, Budapest, Lansing. Saying I came back on the 8th of
8 July. Well, no. About a month off, right? A claim saying I
9 came back on the 8th of July. Well, no, you didn't come back
10 until the 8th of August. You see, it's kind of problematic for
11 the defendant when you're submitting claims saying, Hey, look
12 at me, I'm flying out of the United States, but you're provably
13 not even in the country.

14 And then on top of that, this claim here, you'll be
15 able to look at his credit card records seeing that that charge
16 right there, that flight was canceled and refunded before the
17 claim went.

18 Continuing with Budapest, you'll see a claim that is
19 submitted to RAS, which is the Robotics and Automation Society
20 which is an organization within IEEE. So kind of think of RAS
21 as, you know, IEEE headquarters as distinguished from an IEEE
22 conference.

23 Anyway, so this claim is submitted to RAS. Same
24 dates, came in 6-22, left on -- can you blow that up, please,
25 right there, a stitch? RAS. Left on the 6th of July. Pull

1 back out, please.

2 Well, no, you left on the 1st of July and you didn't
3 come back until a month later, five weeks later. But that
4 claim is submitted and reimbursed.

5 Then we go to IROS 2009. You'll learn that all these
6 conferences have these acronym names for highly technical
7 titles. In any event, so then this claim is submitted. Same
8 time period, Lansing, Budapest, Lansing, for \$10,540 to this
9 conference budget. Well, you'll see that, okay, that one was
10 canceled and refunded to begin with. And also when you look at
11 the original reservation, you'll see that the flight was going
12 to leave on 22 July, not 1 July, but the itinerary that was
13 submitted for reimbursement, the date was different. It was to
14 depart on 1 July. So when you're looking at this document set,
15 you'll see, well, okay, booked this flight for \$10,500 on the
16 20th of July, after Budapest was already over, and submitted
17 it, but now the date of the document says 1 July. And on top
18 of it it was canceled and refunded. All in the same time
19 period.

20 And then you'll see this, ICRA 2014. That's another
21 conference. Same time period. Same claims. He can't possibly
22 be leaving the country when you're not even in the country.
23 And so when you consider all these documents, you'll be sitting
24 there thinking "Well, that's pretty neat. One trip." The
25 evidence will be that, yeah, he did go to Budapest. He came in

1 from China to Lansing, went to Budapest, but then went off
2 someplace else and didn't come back for a while, and then
3 submitted all these different claims with all these different
4 bogus documents to score over \$28,000 in reimbursements from
5 four different organizations.

6 Okay, thanks.

7 So the evidence you'll be looking at first off is
8 documents. You'll look at travel claims with airline
9 itineraries. You'll look at credit card records. You'll have
10 the CBP Custom and Border Protection records. You'll have
11 itineraries that were sent to conference treasurers so that
12 they would -- well, they -- so that the treasurer would write
13 checks. You'll even look at limo records from sedan rides from
14 Okemos to Detroit International and back because a bunch of
15 fraudulent limo receipts were submitted.

16 Then you'll hear witness testimony. The witnesses
17 will come from Michigan State University and IEEE. The MSU
18 witnesses will be from the engineering school, and they will
19 testify about -- they will tell you a narrative of how in 2011
20 Dr. Xi took a sabbatical, that's an authorized leave from your
21 institution, to go work at and teach at a university in
22 Hong Kong. And there are two Hong Kong universities involved,
23 so I'll just call it university 1 and university 2. Anyway,
24 the engineering witnesses will tell you that, okay, 2011 he
25 takes a sabbatical and he goes to Hong Kong. Then they will

1 tell you that he violated MSU policy by actually taking a job
2 there. A paying job. You're not supposed to take a paying job
3 with another institution when you're on sabbatical because you
4 are still an MSU professor.

5 You'll learn that, well, MSU found out about that and
6 contacted him and said, Hey -- I mean, they used fancier
7 words -- but they said, Knock it off and get back here. And
8 then in 2014, in the summer of 2014, he came back and they
9 imposed -- they disciplined him, slap on the wrist. What you
10 might consider a slap on the wrist. A three-week suspension.
11 And they counseled him, and it was all agreed, okay, you're
12 back at MSU, now you're going to be a good professor and you're
13 going to, you know, work for MSU and do your job.

14 Well, bear in mind that those exhibits we were just
15 looking at, September 2014, that trip to Budapest, so after he
16 comes back and gets counseled and gets reprimanded, he's still
17 off to the races submitting these sorts of claims. And that's
18 why this whole aspect of his dealings with MSU about these jobs
19 in Hong Kong matters, because at the same time that MSU was
20 trying to figure out what he is doing over there and what his
21 employment status is and they are getting stonewalled, there's
22 this pattern of just not dealing squarely with MSU, with trying
23 to hide things. At the same time that these travel claims are
24 being submitted to MSU. That's why this business about
25 Hong Kong and his jobs over there matters.

1 So in any event, he comes back summer of 2014. Then
2 summer of 2015 MSU finds out it looks like he's taken a job
3 with university 2 in Hong Kong, so they counsel him again and
4 they are going to reprimand him again and they tell him they
5 are going to impose a six-month suspension, and then in October
6 of 2015 Dr. Xi says "That's it, I resign." Then no big
7 surprise, where does he go? He starts that job in Hong Kong by
8 January 25th later in 2015. So that will be the testimony, the
9 MSU testimony from the engineering school.

10 Then you'll hear testimony from the travel
11 department. That will come in today. The witnesses will
12 testify about the claims process. MSU, we all know, is a big
13 national and international university. They have employees,
14 professors, flying all over the country, all over the world.
15 So they have a travel department. And these witnesses will
16 testify that there is an established process for submitting
17 reimbursement claims. That it is absolutely essential that
18 when you submit reimbursement claims you submit genuine
19 documents. And if it's airfare, they be genuine documents
20 showing not just the exact itinerary but the exact cost and the
21 exact amount that you paid.

22 You'll hear that there is no tolerance, that you
23 can't double dip. If you have already been reimbursed for part
24 or whole -- I should say paid because there's a difference
25 between reimbursed and being paid -- if you've already been

1 paid for part of a trip, you have to disclose that. You don't
2 get to have institution 1 pay you and then go to MSU and say
3 would you pay me also? So you'll hear that you can't double
4 dip or triple dip or quadruple dip.

5 The witness from the travel department will talk
6 about how they only reimburse for genuine expenses and genuine
7 out-of-pocket expenses. And only for expenses incurred on
8 behalf of MSU.

9 Finally, they will talk about how all of these travel
10 reimbursements -- or all or most of the travel reimbursements
11 that were paid to Dr. Xi came out of grant funding. That is
12 someone outside the university wants to give the university
13 money, quite often because they want Dr. Xi to work on
14 something, and then they give MSU this money. But the travel
15 people will tell you that's MSU money, and if you want to be
16 paid out of that MSU account, you go through the exact same
17 process to get paid out of any other MSU account.

18 And then you'll hear testimony from folks in the
19 financial department, and they will testify -- they will
20 explain to you how when someone gives money to MSU, that is
21 MSU's money. Only MSU can authorize expenditures from those
22 accounts. And they will only authorize it for legitimate
23 business purposes. So that's part 1 of the case, is Dr. Xi's
24 dealings or misdealings with MSU.

25 The second part of the case will be IEEE, and you're

1 going to see the same pattern. The exact same pattern that you
2 saw with MSU but with an added fact that made IEEE even more
3 vulnerable to this fraud than MSU. You're going to learn that
4 Dr. Xi chaired -- he's a fellow at IEEE. He's a big deal in
5 IEEE. So he was the chair of numerous conferences in various
6 parts of the world. And when IEEE puts on a conference, a
7 separate bank account is established for conference expenses.
8 And two people can draw out of the account, the chair and the
9 treasurer. They can write checks on an IEEE conference
10 account. So what was the added factor, you're probably asking
11 yourself, that made IEEE even more vulnerable than MSU? Well,
12 it was the fact that for all these conferences the same guy was
13 the treasurer of those conferences. And that guy is named --
14 and I practiced pronouncing this correctly, and I may not get
15 it right -- Weihua Sheng. Sheng is spelled S-H-E-N-G. So when
16 I say it's Dr. Xi and then Sheng. Sheng is also a doctor.
17 He's a Ph.D. or a doctor of science. He's also a doctor, and
18 he's a professor at Oklahoma State University.

19 Well, so the thing that made IEEE even more
20 vulnerable isn't just that Sheng was the treasurer for all
21 these conferences, it's that he's also an MSU graduate school
22 graduate. You could say he owed his career to Dr. Xi because
23 he got his doctoral degree under Dr. Xi at MSU. And he's also
24 a member of IEEE. And we think the evidence is going to prove
25 that Dr. Xi took advantage of that relationship with Dr. Sheng.

1 And he took advantage of the fact that Dr. Sheng had little to
2 no accounting training. He had no training on how to manage
3 these budgets. He had no help to speak of. He had a day job
4 being a professor at Oklahoma State University and being the
5 treasurer for other conferences that Dr. Xi was the chair of.
6 And he also had no real inclination to question Dr. Xi because
7 Dr. Xi was his mentor. He looked up to Dr. Xi. And Dr. Xi was
8 as big a wheel in IEEE as you can possibly be because he was a
9 fellow.

10 And Dr. Xi year after year sent an unbroken river, an
11 unbroken chain of receipts and itineraries to Dr. Sheng saying
12 "Pay me for these." And that's what Dr. Sheng did. He didn't
13 investigate. He didn't compare. He got receipts, he added
14 them up, and he wrote checks. A lot of checks. And this
15 worked great for Dr. Xi for a while, for quite a while, up
16 until the end -- up until after the ICRA 2014 conference. ICRA
17 is the International Conference of Robotics and Automation.
18 Okay? It's a big conference that IEEE puts on every year in
19 different parts of the world. And ICRA 2014 was in Hong Kong
20 in early June.

21 Bear in mind, 2014, how many years -- the evidence
22 will show how many years had Dr. Xi been in Hong Kong?
23 Three years. 2011 to 2014. Because he extended that
24 sabbatical.

25 So anyway, IEEE got word that there might be some

1 funny business. They had some concerns about the ICRA 2014
2 conference, so they got all of the receipts that had been
3 submitted to Sheng. And like I said, you'll find out he has no
4 accounting experience. And you might find it almost comical
5 the way he tried to manage these receipts and stuff, but it's a
6 big banker's box full of receipts with sticky notes on them and
7 his handwritten notes saying, okay, these receipts add up to
8 this, I'll write these two checks.

9 So anyway, IEEE gets ahold of the big ICRA box and
10 they turn that over to an outside auditor. A real auditor. A
11 company called Grant Thornton. And Grant Thornton deep dives
12 into that box and they find out, well, let's see, Dr. Xi was
13 reimbursed for receipts supposedly incurred in 66 different
14 cities all paid out of the ICRA 2014 account. 66 different
15 cities. To put on a conference in the town where you live,
16 Hong Kong?

17 Grant Thornton compared all these receipts and said,
18 "Wait a minute, this is impossible. You can't have been here
19 at the same time you were here. You can't have flown that way
20 when you were supposedly flying this way." And how many checks
21 in total were written out of the ICRA 2014 conference? Well,
22 you're going to find that Weihua Sheng wrote \$470,000 worth of
23 checks to Dr. Xi out of the ICRA 2014 account.

24 And then you'll see evidence, as was forecasted up
25 there just a minute ago, that some of the stuff that was sent

1 to be reimbursed out of ICRA 2014 was also sent to MSU so he
2 could get paid.

3 Now, Sheng will be here to testify, and one of the
4 things he's going to tell you is that he kept boxes of
5 receipts. The way he kept -- if you want to call it keeping
6 track -- the way he kept track of the ICRA stuff, he did the
7 same thing with these other conferences where he was the
8 treasurer and Dr. Xi was the chair. And that he told the FBI,
9 "Yeah, I've got the other boxes back in my office." And he'll
10 tell you that, well, not surprisingly, the FBI said, "Okay,
11 great. Here is a grand jury subpoena. Turn that stuff over."
12 And then the FBI dove into those boxes. And what did they see?
13 The same pattern. Same big checks. Same double submissions.
14 Same air flights that couldn't have happened, didn't happen.

15 So the bottom line we think, we're confident, is that
16 the evidence is going to prove that Dr. Ning Xi leveraged his
17 status as a big deal in his field -- and there is no denial
18 that he is a big deal in the field of nanorobotics, he is known
19 the world over -- the evidence is going to show that he
20 leveraged his status as a big deal in his field and he
21 exploited his positions of trust and respect at both MSU and
22 IEEE, and he exploited his relationship with his protege and
23 really subordinate within the organization, Weihua Sheng, to go
24 wherever he wanted, whenever he wanted, to do whatever he
25 wanted, and to stick MSU and IEEE with the bill. Thank you.

1 I certify that the foregoing is a correct excerpt
2 transcript from the record of proceedings in the above-entitled
3 matter.

4 I further certify that the transcript fees and format
5 comply with those prescribed by the court and the Judicial
6 Conference of the United States.

7
8 Date: June 24, 2019

9
10 **/s/ Glenda Trexler**

11 Glenda Trexler, CSR-1436, RPR, CRR
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